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Robert A. Voigt, Jr. WINSTEAD SECHREST & MINICK PC PO BOX 50784 DALLAS, TX 75201			EXAMINER PHAM, CHRYSTINE	
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			2192	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/618,181	Applicant(s) CHILDS ET AL.	
	Examiner Chrystine Pham	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to Reply filed November 27, 2006. No claims have been amended. Claims 1-23 are presented for examination.

Response to Arguments

Applicant's arguments filed November 27, 2006 have been fully considered but they are not persuasive.

Argument 1 – “Barritz does not disclose ‘wherein the data storage appliance contains an application suitable to copy the set of software from the first computer onto the data storage appliance’” (Remarks, pages 2-3).

Response to Argument 1 – As established in the previous Office Action (pages 2-3), col.6:5-46 of Barritz explicitly discloses a system and method for migrating software products from a first computer to a second different computer. The same passage explicitly discloses a MOVING VAN containing a list of software products and the operating system software, which is used in the migration of software products. Also as established in the previous Office Action (pages 2-3), col.8:9-40 of Barritz explicitly discloses the MOVING VAN containing a collection of software products to be moved (i.e., migrated to the second computer). The same passage specifically states that the **MOVING VAN can be written on transportable media such as diskette**, can be written on storage device accessible via by both the current computer and the new computer (e.g., distribution medium 50 of FIG.2), via a network such as the Internet; can

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be written as a data stream sent via a network such as the Internet to the new computer” (Emphasis added). Col.10:61-col.11:25 of Barritz further discloses the process of placing a software product (to be migrated) in the MOVING VAN. Col.8:59-66 of Barritz further discloses executing a SETUP.EXE (i.e., application suitable to copy the set of software from the first device onto a second device) program to install software products. Col.12:55-64 of Barritz explicitly discloses the MOVING VAN contains the SETUP.EXE program (i.e., application suitable to copy the set of software from the first device onto a second device), which is executed by the UNPACKER 30 to installs the software products which have been loaded onto the MOVING VAN on the new computer. Thus, contrary to Applicants’ argument, Barritz’s MOVING VAN clearly anticipates “wherein the data storage appliance contains an application suitable to copy the set of software from the first computer onto the data storage appliance”.

Argument 2 – “Barritz does not disclose ‘wherein the data storage appliance is connectable to the second computer’” (Remarks, page 4).

Response to Argument 2 – As disclosed above in Response to Argument 1, col.8:9-40 of Barritz explicitly discloses the **MOVING VAN can be written on storage device accessible via by both the current computer and the new computer**” (Emphasis added), Barritz clearly anticipates ‘wherein the data storage appliance is connectable to the second computer’.

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Argument 3 – “Barritz does not disclose ‘wherein the application is also suitable to copy the set of software from the data storage appliance to the second computer’” (Remarks, page 4).

Response to Argument 3 – As disclosed above in Response to Argument 1, since the MOVING contains the SETUP.EXE program that is executed to install the software products placed in the MOVING VAN on the new computer, the SETUP.EXE contained in the MOVING VAN clearly anticipates ‘wherein the application is also suitable to copy the set of software from the data storage appliance to the second computer’.

All other arguments are not fully responsive to the prior Office Action because they recite limitations that are not part of the actual claims, which are being argued for.

Applicants argue that “Barritz does not disclose ‘verifying authorization to copy system files onto a destination computer’ as recited in claim 9 (Remarks, page 4, last paragraph). However, this limitation is not recited in claim 9.

Similarly, Applicants argue that “Barritz does not disclose ‘configuring the software for operation on the destination computer’ as recited in claim 9” (Remarks, page 5, first full paragraph). However, this limitation is not recited in claim 9.

Applicants further argue that “Barritz does not disclose ‘executing a program stored on said medium without installation of such program destination computer’ as recited in claim 15”. However, this limitation is not part of claim 15.

Applicants further argue that "Barritz does not disclose 'copying the operating system software from a data set to the destination computer' as recited in claim 15" (Remarks, page 6, 2nd full paragraph). However, this limitation is not recited in claim 15.

Applicants further argue that "Barritz does not disclose 'copying a registry file to the destination computer' as recited in claim 15" (Remarks, page 6, last paragraph). However, this limitation is not recited in claim 15.

Applicants further argue that "Barritz does not disclose 'wherein the application is further suitable to modify the set of software while ...' as recited in claim 3" (Remarks, page 7, last paragraph). However, this limitation is not recited in claim 3.

Applicants further argue that "Barritz does not disclose 'wherein such modification comprises an addition to the set of software' as recited in claim 5" (Remarks, page 8, first full paragraph). However, this limitation is not recited in claim 5.

Applicants further argue that "Barritz does not disclose 'wherein such addition comprises a set of drivers ...' as recited in claim 6" (Remarks, page 8, last paragraph). However, this limitation is not recited in claim 6.

Applicants further argue that "Barritz does not disclose 'wherein such modification comprises modifying the order ...' as recited in claim 7" (Remarks, page 9, first full paragraph). However, this limitation is not recited in claim 7.

Applicants further argue that "Barritz does not disclose 'wherein the application is further suitable to disable the set of software on the first computer' as recited in claim 8" (Remarks, page 9, last paragraph). However, this limitation is not recited in claim 8.

Applicants further argue that "Barritz does not disclose 'having stored thereon computer-executable instructions, wherein ...' as recited in claim 13" (Remarks, page 10, 1st full paragraph). However, this limitation is not recited in claim 13.

Applicants further argue that "Barritz does not disclose 'having stored thereon computer-executable instructions for performing the steps ...' as recited in claim 14" (Remarks, page 10, last paragraph). However, this limitation is not recited in claim 14.

Applicants further argue that "Barritz does not disclose 'copying a supplemental registry file ...' as recited in claim 16" (Remarks, page 11, 1st full paragraph). However, this limitation is not recited in claim 16.

Applicants further argue that "Barritz does not disclose 'adding the supplemental registry file to ...' as recited in claim 16" (Remarks, page 11, last paragraph). However, this limitation is not recited in claim 16.

Applicants further argue that "Barritz does not disclose 'copying a supplemental registry instruction file to ...' as recited in claim 17" (Remarks, page 12, last paragraph). However, this limitation is not recited in claim 17.

Applicants further argue that "Barritz does not disclose 'executing the installation programs ...' as recited in claim 19" (Remarks, page 13, last paragraph). However, this limitation is not recited in claim 19.

Applicants further argue that "Barritz does not disclose 'wherein the data set is accessed via a network' as recited in claim 20" (Remarks, page 14, first paragraph). However, this limitation is not recited in claim 20.

Applicants further argue that "Barritz does not disclose 'wherein the data set contains a storage address file ...' as recited in claim 21" (Remarks, page 14, 2nd full paragraph). However, this limitation is not recited in claim 21.

Thus, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (e.g., "verifying authorization to copy system files onto a destination computer") are not recited in the rejected claim(s) (e.g., claim 9). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-5, 7-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Barritz et al. (US 6,889,376 B1, "Barritz").

Claim 1

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Barritz teaches a system (see at least FIG.2 & associated text) for migrating a set of software from a first computer to a second computer (see at least *step 2 – step 8* FIG.1 & associated text; *migrating software, “current” computer, “new” computer* col.1:10-40) comprising a data storage appliance (see at least 50 FIG.2 & associated text), wherein the data storage appliance is connectable to the first computer, wherein the data storage appliance contains an application suitable to copy the set of software from the first computer onto the data storage appliance (see at least *original computer, second computer, user’s operating environment, software product, migration, packing, copying, movable storage medium* col.4:65-col.5:35; *MOVING VAN, software products, operating system, migration, transportable media, network, Internet, removable data storage device* col.6:5-col.8:40), and wherein the data storage appliance is connectable to the second computer, and wherein the application is also suitable to copy the set of software from the data storage appliance to the second computer (see at least *original computer, second computer, user’s operating environment, software product, migration, packing, copying, movable storage medium* col.4:65-col.5:35; *MOVING VAN, software products, operating system, migration, transportable media, network, Internet, removable data storage device* col.6:5-col.8:40).

Claim 3

The rejection of base claim 1 is incorporated. Barritz further teaches wherein the data storage appliance is connectable to the first computer via a network (see at least *original computer, second computer, user’s operating environment, software product,*

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migration, packing, copying, movable storage medium col.4:65-col.5:35; MOVING VAN, software products, operating system, migration, transportable media, network, Internet, removable data storage device col.6:5-col.8:40).

Claim 4

The rejection of base claim 1 is incorporated. Barritz further teaches wherein the application is also suitable to operate without being installed on the hard drive of the first computer or the hard drive of the second computer (see at least *original computer, second computer, user's operating environment, software product, migration, packing, copying, movable storage medium col.4:65-col.5:35; MOVING VAN, software products, operating system, migration, transportable media, network, Internet, removable data storage device col.6:5-col.8:40).*

Claim 5

The rejection of base claim 1 is incorporated. Barritz further teaches wherein the application is further suitable to modify the set of software while it is on the data storage appliance and before such set of software is copied to the second computer (see at least *more recent version, product, user data files, compressed versions, executable files, data extracted, WINDOWS registry col.11:1-12; files to pack col.11:59-65).*

Claim 7

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The rejection of base claim 3 is incorporated. Barritz further teaches wherein such modification comprises an addition to the set of software (see at least *more recent version, product, user data files, compressed versions, executable files, data extracted, WINDOWS registry* col.11:1-12; *files to pack* col.11:59-65).

Claim 8

The rejection of base claim 7 is incorporated. Barritz further teaches wherein such addition comprises a set of drivers particular to the operation of the set of software in the environment of the second computer (see at least *software product, executable program, installation files, configuration data, ancillary programs* col.1:23-40).

Claim 9

The rejection of base claim 3 is incorporated. Barritz further teaches wherein such modification comprises modifying the order of the members of the set of software (see at least *default operation, specified directory* col.12:23-37).

Claim 10

The rejection of base claim 1 is incorporated. Barritz further teaches wherein the application is further suitable to disable the set of software on the first computer (see at least *LOADER, PACKER, disables, software product, original computer* col.10:45-60).

Claim 11

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Barritz teaches a removable computer-readable medium having stored thereon computer-executable instructions for performing the steps comprising: verifying authorization to copy system files onto a destination computer (see at least *REGISTRY READER, license manager, license rights* col.7:45-55); copying software to the destination computer; configuring the software for operation on the destination computer (see at least *original computer, second computer, user's operating environment, software product, migration, packing, copying, movable storage medium* col.4:65-col.5:35; *MOVING VAN, software products, operating system, migration, transportable media, network, Internet, removable data storage device* col.6:5-col.8:40)

Claim 12

The rejection of base claim 11 is incorporated. Barritz further teaches wherein the software copied resides on the removable computer-readable medium (see at least *original computer, second computer, user's operating environment, software product, migration, packing, copying, movable storage medium* col.4:65-col.5:35; *MOVING VAN, software products, operating system, migration, transportable media, network, Internet, removable data storage device* col.6:5-col.8:40).

Claim 13

Claim recites limitations, which have been addressed in claim 3, therefore, is rejected for the same reasons as cited in claim 3.

Claim 14

The rejection of base claim 11 is incorporated. Barritz further teaches having stored thereon a set of software files suitable for execution upon a destination computer (see at least *more recent version, product, user data files, compressed versions, executable files, data extracted, WINDOWS registry* col.11:1-12; *files to pack* col.11:59-65).

Claim 15

The rejection of base claim 11 is incorporated. Barritz further teaches having stored thereon computer-executable instructions, wherein the computer-executable instructions are configured so as to execute automatically upon the medium's insertion into the destination computer (see at least FIGs.7, 7A & associated text).

Claim 16

The rejection of base claim 11 is incorporated. Barritz further teaches having stored thereon computer-executable instructions for performing the steps further comprising: installing an operating system onto the computer from the medium; and rebooting the computer (see at least FIGs.7, 7A & associated text).

Claim 17

Barritz teaches a method for distributing an operating system software to a destination computer comprising the steps of: connecting to the destination computer an appliance

containing computer-readable medium; executing a program stored on said medium without installation of such program on the destination computer (see at least *MOVING VAN 26, 50 FIG.7 & associated text; FIG.7A & associated text*); copying the operating system software from a data set to the destination computer; and copying a registry file to the destination computer (see at least *FIGs.7,7A & associated text*).

Claim 18

The rejection of base claim 17 is incorporated. Barritz further teaches copying a supplemental registry file to the destination computer; and adding the supplemental registry file to the registry file, wherein the supplemental registry file contains configuration information relating to an application installed on the destination computer (see at least *more recent version, product, user data files, compressed versions, executable files, data extracted, WINDOWS registry col.11:1-12; files to pack col.11:59-65; FIG.7A & associated text*).

Claim 19

The rejection of base claim 17 is incorporated. copying a supplemental registry instruction file to the destination computer; and executing the instructions in the supplemental registry instruction file to remove entries from the registry file wherein the supplemental registry instruction file contains instructions to remove configuration information relating to an application not installed on the destination computer (see at least *LOADER, PACKER, disables, software product, original computer col.10:45-60;*

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FIG.7A & associated text).

Claim 20

The rejection of base claim 17 is incorporated. Barritz further teaches wherein the operating system is a Windows-based operating system (see at least *WINDOWS* col.6:5-60).

Claim 21

The rejection of base claim 17 is incorporated. Barritz further teaches copying an application to the destination computer; and executing the installation program for the application, wherein the installation program updates the registry file with entries appropriate to the application (see at least col.7:45-55; col.9:35-65; col.11:1-15).

Claim 22

The rejection of base claim 17 is incorporated. Barritz further teaches wherein the data set is accessed via a network (see at least *original computer, second computer, user's operating environment, software product, migration, packing, copying, movable storage medium* col.4:65-col.5:35; *MOVING VAN, software products, operating system, migration, transportable media, network, Internet, removable data storage device* col.6:5-col.8:40).

Claim 23

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The rejection of base claim 22 is incorporated. Barritz further teaches wherein the data set contains a storage address file which specifies the files comprising the operating system software (see at least *MOVING VAN, software products, operating system, migration, transportable media, network, Internet, removable data storage device* col.6:5-col.8:40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barritz in view of Kleinschnitz, Jr. et al. (US 2003/0191911 A1, "Kleinschnitz").

Claim 2

The rejection of base claim 1 is incorporated. Barritz does not expressly disclose wherein the data storage appliance is connectable to the first computer via a USB port. However, Kleinschnitz teaches a system and method of migrating software (see at least paragraph [0082]) wherein software is copied and stored in USB portable disk drive (see at least paragraph [0003]). It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to incorporate the teaching of Kleinschnitz into that of Barritz for the inclusion of USB portable storage appliance. And

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the motivation for doing so would have been to make backup copies of the software as a precaution so the software can be restored if the hard drive fails or is corrupted by virus (see at least Kleinschnitz paragraph [0004]).

Claim 6

The rejection of base claim 3 is incorporated. Barritz does not expressly disclose wherein such modification comprises a virus scan of the set of software. However, Kleinschnitz teaches a method of software migration comprising a virus scan of the set of software (see at least paragraphs [0082], [0096]). It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to incorporate the teaching of Kleinschnitz into that of Barritz for the inclusion of a virus scan. And the motivation for doing so would have been to take precaution and prevent any virus infected software from migrating, therefore, corrupting, the target computer.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

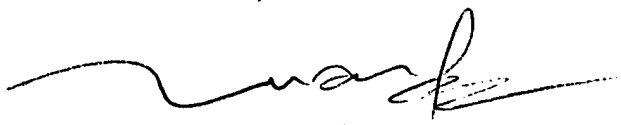
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chrystine Pham whose telephone number is 571-272-3702. The examiner can normally be reached on Mon-Fri, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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